

an adjournment of more than 3 days to a day certain are excluded in the computation of the days in which Congress is in continuous session.

**§ 1270.32 Disposal of Presidential Records in the custody of the Archivist.**

(a) The Archivist may dispose of Presidential records which he has appraised and determined to have insufficient administrative, historical, informational, or evidentiary value to warrant their continued preservation.

(b) When Presidential records are scheduled for disposal pursuant to paragraph (a) of this section, the Archivist shall publish a notice of this disposal in the FEDERAL REGISTER at least 60 days before the proposed disposal date.

(c) The notice required by paragraph (b) of this section, shall include the following:

(1) A reasonably specific description of the records scheduled for disposal; and

(2) A concise statement of the reason for disposal of the records.

(d) Publication in the FEDERAL REGISTER of the notice required by paragraph (b) of this section shall constitute a final agency action for purposes of review under chapter 7 of title 5 U.S.C. (5 U.S.C. 701-706).

**Subpart D—Access to Presidential Records**

**§ 1270.40 Identification of restricted records.**

(a) If a President, prior to the conclusion of his term of office or last consecutive term of office, as the case may be, specifies durations, not to exceed 12 years, for which access to certain information contained in Presidential records shall be restricted, in accordance with 44 U.S.C. 2204, the Archivist or his designee shall identify the Presidential records affected, or any reasonably segregable portion thereof, in consultation with that President or his designated representative(s).

(b) The Archivist shall restrict public access to the information contained in those records identified as affected until—

(1) The date on which the former President waives the restriction on disclosure of the record or information contained within;

(2) The expiration of the period of restriction specified under 44 U.S.C. 2204(a) for the category of information under which a certain record, or a portion thereof, was restricted; or

(3) The Archivist has determined that the former President or an agent of the former President has placed in the public domain through publication a restricted record or a reasonably segregable portion thereof, if this date is earlier than either of the dates specified in paragraph (b)(1) or (2) of this section.

**§ 1270.42 Denial of access to public; right to appeal.**

(a) Any person denied access to a Presidential record (hereinafter *the requester*) because of a determination that the record or a reasonably segregable portion thereof was (1) properly restricted under 44 U.S.C. 2204(a), and (2) not placed in the public domain by the former President or his agent, may file an administrative appeal with the Assistant Archivist for Presidential Libraries (NL), Washington, DC 20408.

(b) Appeals shall be filed no later than 10 working days after the requester receives written notification that access to Presidential records has been denied.

(c) Appeals shall be in writing and shall set forth the reason(s) why the requester believes access to the records sought should be allowed. The requester shall identify the specific records sought.

(d) Upon receipt of an appeal, the Assistant Archivist for Presidential Libraries shall have 30 working days from the date an appeal is filed to consider the appeal and to respond in writing to the requester. The Assistant Archivist's response shall state whether or not the Presidential records requested are to be released and the basis for this determination. The decision of the Assistant Archivist to withhold release of Presidential records is final and not subject to judicial review.